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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,764	05/02/2007	Mitsuhiko Takeda	5316-0103PUS1	3416
2292 7590 06/09/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
ADAMS, BRET W				
ART UNIT		PAPER NUMBER		
2862				
NOTIFICATION DATE		DELIVERY MODE		
06/09/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

**Application No.**

10/576,764

**Applicant(s)**

TAKEDA ET AL.

**Examiner**

BRET ADAMS

**Art Unit**

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 3/20/06: 5/2/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 4, 2<sup>nd</sup> paragraph of the specification as originally filed, the applicant refers to embodiments of the invention being described by specific claims. This is improper as the content and scope of the claims changes upon amendment. Further, should a claim be cancelled during prosecution then the description referring to it would lose its meaning.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 7 is objected to because of the following informalities:
3. In claim 7, line 3, "said horizontal scanning means" lacks antecedent basis as claim 7 depends on claim 5 which only introduces a vertical scanning means.
4. Appropriate correction is required.

### ***Information Disclosure Statement***

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent (*emphasis added*); (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which

caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

5. Particularly, JP915110A is listed on the IDS filed 3/20/06 and the international search report but no legible copy has been provided to or located by the examiner.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9, 11-16 rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi (US 2001/0050719A1).

8. Regarding claim 1, Kobayashi discloses a device for controlling an imaging lens position, comprising: an image signal acquirer (302) which acquires an image signal; a focus lens moving unit (308) which moves a focus lens during an acquisition time period

(see [0086], where acquisition time period is interpreted as the time elapsed during the search for an autofocus point); a storage (209,211a), which stores a position-dependent image signal, which is information correlating the image signal acquired by said image signal acquirer with a focus lens position, which is moved by said focus lens moving unit (see Figs 5 and 8, [0071,0083-86], where Fig 8 depicts contrast values as a function of lens position and wherein [0086] describes detecting the focus point as it correlates to lens position which inherently means previous out-of-focus lens positions are stored at least temporarily in order to enable the comparison and selection of an in-focus point and its correlation to lens position); a determinator (211) for an imaging lens position, which determines an imaging lens position, which is a focus lens position for imaging, based on the position-dependent image signal stored by said storage (see [0086]).

9. Regarding claims 2-4, Kobayashi discloses the device as discussed above with respect to claim 1. Kobayashi further discloses that the acquisition time period is a time period for acquiring an image signal of a frame (see 303a in Fig 7, [0083], and [0086], where acquisition time period is interpreted as the time elapsed during autofocus point searching). Kobayashi further discloses that the focus lens moves intermittently ([0086] and Fig 10 where lens is driven 1 step after each AF evaluation) and wherein said position-dependent image signal is an image signal acquired during a non-moving state of said focus lens moving intermittently (see Fig 10 steps S29-S31 where AF is evaluated and as a result the AF motor is driven 1 step if necessary which implies that AF evaluation is done while the focusing lens is in a non-moving state).

10. Regarding claims 5-7 and 11-12, Kobayashi discloses the device as discussed above with respect to claim 3. Kobayashi further discloses the device wherein the image signal acquirer comprises a vertical and horizontal scanning means, which acquires an image signal by vertically and horizontally scanning an image sensor arranged in a matrix (wherein a CCD is an matrix or array of tiny photosensors), and a switching means for switching scanning direction between horizontal and vertical scanning (see [0050,0062,0077] where the timing generator enables reading of CCD in vertical and horizontal directions and recording image generation reads pixel data horizontally and vertically from image memory 209 containing data directly from the image acquirer 303, and wherein a switching means between scanning directions is inherently disclosed in this operation as controlling the order in which pixels is scanned is necessary for sensible data to be extracted from the CCD, wherein it would be necessary at the end of a horizontal row to switch scan down vertically to the next column in order to continue horizontal scanning of the next row).

11. Regarding claims 8-9 and 13-16, Kobayashi discloses the device as discussed above with respect to claims 3 and 7. Kobayashi further discloses that the image signal is a luminance signal and an RGB signal (see [0074] where the luminance is detected from RGB signals of the image data for the entire image).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 10 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (US 2001/0050719A1) in view of Taubman (US 6995796B2).
14. Regarding claims 10 and 17-18, Kobayashi teaches the device as discussed above with respect to claims 1, 3, and 7. Kobayashi does not explicitly teach that the image signal is a CMYG signal. Taubman teaches an image signal for digital cameras which produces a CMYG image signal (see Taubman Fig 3 and c.4 I.21-33). It would have been obvious for one having ordinary skill in the art at the time of the invention to use the image sensor of Taubman in the digital camera of Kobayashi because doing so would provide predictable results of producing an image with accurate color rendition while working with the features discussed in Kobayashi.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRET ADAMS whose telephone number is (571)270-5028. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on (571)272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRET ADAMS/  
Examiner, Art Unit 2862

/MELISSA J KOVAL/  
for Patrick J. Assouad, Examiner of Art Unit 2862